

REMARKS

Claims 35-69 are pending.

The rejection under 35 U.S.C. §102(b)

Claims 35-39 were rejected as being anticipated by WO 99/58478 (Claus).

The Applicants respectfully traverse this rejection because it overlooks a limitation present in all of claims 35-39 that is not disclosed in Claus. All of claims 35-39 contain the limitation that "the compound is present as a free base in a degree of purity of above 97 percent by weight."

Claus does not disclose free bases of such high purity. See, e.g., the present application, at page 2, line 29, to page 3, line 4:

The bases of 3,3-diphenylpropylamines published in WO 99/58478 are manufactured by 2-(3-diisopropylamino-1-phenylpropyl)-4-hydroxymethylphenol being converted under alkaline conditions with an appropriate acid chloride, for example, isobutyric acid chloride (see Example Execution 3aa of WO 99/58478).

This reaction, however, only leads disadvantageously to approximately 90% up to a maximum approximate 94% of the desired main product (B). The product consistently contains 6-10% impurities of the starting substance (A), the used acylation agent as well as undesired reaction products in the form of the corresponding di-ester of the acylating reagent used (C) of the monoester (D) of the 4-hydroxy group (see FIG. 1) as well as by dimerization/polymerization.

Since Claus does not disclose a limitation of claims 35-39, Claus does not anticipate claims 35-39. Accordingly, it is respectfully requested that this rejection be withdrawn.

The time for responding to the Office Action was set for February 21, 2007.

Therefore, it is believed that this paper is timely. If this is in error, please treat this paper as


containing a Petition for the Extension of Time and charge any fees associated with the Petition to Kenyon & Kenyon's Deposit Account No. 11-0600.

The Applicants hereby make a Conditional Petition for any relief available to correct any defect seen in connection with this filing, or any defect seen to be remaining in this application after this filing. The Commissioner is authorized to charge Kenyon & Kenyon's Deposit Account No. 11-0600 for the Petition fee and any other fees required to effect this Conditional Petition.

Respectfully Submitted,

Date: February 21, 2007

BY:


Joseph A. Coppola
Reg. No. 38,413

KENYON & KENYON LLP
One Broadway
New York, NY 10004
(212) 425-7200 (telephone)
(212) 425-5288 (facsimile)

CUSTOMER NUMBER 26646